GP1644

Sterne Kessler Goldstein Fox
ATTORNEYS AT LAW

OIPE JC32 JUN 18 2004 PATENT & TRADEMARK OFFICE

Robert Greene Sterne
Edward J. Kessler
Jorge A. Goldstein
David K.S. Cornwell
Robert W. Esmond
Tracy-Gene G. Durkin
Michele A. Cimbala
Michael B. Ray
Robert E. Sokohl
Eric K. Steffe
Michael Q. Lee
Steven R. Ludwig
John M. Covert
Linda E. Alcorn
Robert C. Millonig
Donald J. Featherstone
Lawrence B. Bugaisky
Michael V. Messinger

Judith U. Kim
Timothy J. Shea, Jr.
Patrick E. Garrett
Heidi L. Kraus
Edward W. Yee
Albert L. Ferro*
Donald R. Banowit
Peter A. Jackman
Teresa U. Medler
Jeffrey S. Weaver
Kendrick P. Patterson
Vincent L. Capuano
Eldora Ellison Floyd
Thomas C. Fiala
Brian J. Del Buono
Virgil Lee Beaston
Kimberly N. Reddick
Theodore A. Wood

Elizabeth J. Haanes
Joseph S. Ostroff
Frank R. Cottingham
Christine M. Lhulier
Rae Lynn Prengaman
Jane Shershenovich*
George S. Bardmesser
Daniel A. Klein*
Jason D. Eisenberg
Michael D. Specht
Andrea J. Kamage
Tracy L. Muller*
LuAnne M. DeSantis
John J. Figueroa
Ann E. Summerfield
Tiera S. Coston
Aric W. Ledford*
Jessica L. Parezo

Timothy A. Doyle*
Gaby L. Longsworth*
Nicole D. Dretar*
Ted J. Ebersole
Jyoti C. Iyer*

Registered Patent Agents•
Karen R. Markowicz
Nancy J. Leith
Helene C. Carlson
Matthew J. Dowd
Aaron L. Schwartz
Katrina Y. Pei Quach
Bryan L. Skelton
Robert A. Schwartzman
Teresa A. Colella
Jeffrey S. Lundgren
Victoria S. Rutherford

Eric D. Hayes
Michelle K. Holoubek
Robert H. DeSelms
Simon J. Elliott
Julie A. Heider
Mita Mukherjee
Scott M. Woodhouse

Of Counsel
Kenneth C. Bass III
Evan R. Smith
Marvin C. Guthrie

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+Admitted only in Virginia
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June 18, 2004

WRITER'S DIRECT NUMBER:
(202) 772-8625
INTERNET ADDRESS:
ESTEFFE@SKGF.COM

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Art Unit 1644

Re: U.S. Utility Patent Application
Application No. 09/458,302; Filed: December 10, 1999
For: **Inducing Cellular Immune Responses to Carcinoembryonic Antigen Using Peptide and Nucleic Acid Compositions**
Inventors: FIKES *et al.*
Our Ref: 2060.0080005/HCC/PAC

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Reply to Restriction Requirement; and

2. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Eric K. Steffe
Attorney for Applicants
Registration No. 36,688

HCC/PAC/dbj
Enclosures

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JUN 1 8 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No. 8701
FIKES *et al.*	Art Unit: 1644
Appl. No.: 09/458,302	Examiner: Ronald B. Schwadron
Filed: December 10, 1999	Atty. Docket: 2060.0080005/HCC/PAC
For: **Inducing Cellular Immune Responses to Carcinoembryonic Antigen Using Peptide and Nucleic Acid Compositions**	

Reply to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated May 18, 2004, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the peptide of claim 43. Applicants further provisionally elect to prosecute the above-referenced peptide fused to a linker. The claims which read on the elected species are 41, 43, 53, and 66. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse.

Applicants note that the Examiner has withdrawn claims 42, 44-48, 51-64, and 80-167 as allegedly being directed to a non-elected species. Applicants believe that the Examiner intended that claims 42, **44-50**, **54-64**, and 80-167 were withdrawn as being directed to a non-elected species and request that the Examiner confirm that Applicants belief is correct.

Applicants submit that the claimed invention is directed to peptides or compositions all of which comprise an identical IMIGVLVGV peptide. Applicants assert

that examining claims directed to an 11mer, a 10mer, and a 9mer which comprise the identical peptide would not create an undue burden for searching and examining. In addition, claims to be restricted to different species must recite the mutually exclusive characteristics of such species. MPEP 806.04(f). In the present case, as an example, species (d) a peptide fused to a linker is not mutually exclusive of species (b) a peptide/liposome. Thus, restriction to one species in this case is improper. Similarly, species (a) - (h) are not necessarily mutually exclusive. Accordingly, Applicants respectfully request that requirement be withdrawn.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Eric K. Steffe
Attorney for Applicants
Registration No. 36,688

Date: June 18, 2004
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

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